IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1221 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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EXECUTIVE ENGINEER - Petitioner(s)

Versus

NANUBHAI DAHYABHAI - Respondent(s)

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Appearance :

NOTICE SERVED for Petitioner No(s).: 1.

MR RV DESAI for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 22/08/2005

ORAL JUDGMENT

1.0 The petitioner has prayed to quash and set aside the award dated 18.08.1999 passed by the Labour Court, Godhra

in Reference No. 244 of 1999, whereby the petitioner was directed to reinstate the respondent with continuity of service in the list of daily wagers and other benefits but without any back wages.

2.0 The brief facts of the case are that the respondent herein was serving as a Driver on stop-gap arrangement on daily wages. It is the case of the petitioner that the respondent himself has stopped to come to work. However, in the year 1994, the respondent raised industrial dispute, which, ultimately, culminated into a reference before the Labour Court, Godhra. The Labour Court, by impugned award, allowed the reference as aforesaid. Hence, this petition.

3.0 Though served none appears on behalf of the petitioner. Mr. R V Desai learned advocate for the respondent has submitted that the petitioner has not complied with the directions issued by this Court vide order dated 14.09.2001 and appropriate directions may be issued for its compliance.

4.0 I have heard learned counsel for the respondent and perused the documents placed on record. Having gone

through the impugned award, I am of the opinion that the Labour Court was justified in restoring the respondent to his original post of daily wager with continuity of service. I am in complete agreement with the reasonings given by the Labour Court while granting reinstatement with continuity of service as a daily wager to the respondent workman.

5.0 From the award, it appears that the Labour Court has refused back wages to the respondent on the premise that the respondent workman, being a Driver, it cannot be presumed that he would remain unemployed during the said interim period. In my opinion, the Labour Court was completely justified in denying back wages to the respondent.

6.0 In above view of the matter, the petitioner is directed to restore the respondent workman to his original post of daily wager with the benefit of continuity of service in the list of daily wagers. So far as the contention raised by Mr. Desai regarding the non-compliance of the order of this Court is concerned, it shall be open to the respondent to recover the same by filing appropriate application before the appropriate

authority. With the above observation, the petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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